IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 2654 OF 2005

Rajendra Chandraban Gupta & ors.... Petitioner

versus

Babn Baburao Rasal & ors..... Respondent.

Shri Anil Subramanium for the petitioner.
Shri S.V.Sadavarte for the respondent.

CORAM; A.P. DESHPANDE, J.
DATED; 23RD JULY, 2007

P.C.;

1. By this writ petition, the petitioner is questioning the correctness of an order passed by the Jt. C.J.S.D. Pune, dated 5-2-2005 rejecting the applicaiton for amendment of the written statement. It is undisputed that evidence is already over and the suit presently is for final argument. The trial court has rejected the amendment application but considering the same at the touchstone of Order 6 Rule 17 of CPC. The amendment to Order 6 Rule 17 whereby the proviso was introduced is of the year of 2002, whereas the present suit is filed prior to the amendment to Order 6 Rule 17. Thus in the submission of the learned counsel, the trial court has committed a patent illegality in rejecting his amendment application. I do not propose to go into the question raised in this

petition for the reason that the matter is now fixed for final argument. Leaving all the questions in the writ petition open to be agitated before the first Appellate Court, by filing a regular appeal, the present writ petition is summarily dismissed.

...